

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

CASE NO. 15-20507

HON. DENISE PAGE HOOD

v.

GARY EUGENE JACKSON,

Defendant.

ORDER STRIKING ECF No. 36

On April 28, 2020, the Clerk's Office docketed a document submitted on Defendant's behalf by his wife, Gloria Jackson. ECF No. 36. The document was documented as a Motion for Compassionate Release (the "Motion"). At the time Ms. Jackson prepared the Motion, at the time the Motion was docketed, and presently, Defendant has been represented by legal counsel, Todd R. Perkins.

It is well-established law in the Sixth Circuit that a criminal defendant cannot proceed with hybrid representation, whereby he (or another non-attorney on his behalf) asserts both the right to proceed *pro se* and the right to counsel – he must choose one or the other. *See, e.g., United States v. Mosely*, 810 F.2d 93, 97 (6th Cir. 1987) (citing *United States v. Conder*, 423 F.2d 904, 908 (6th Cir.), *cert. denied*, 400 U.S. 958 (1970)). The only possible exception would be if the Court permits a form

of hybrid representation. *Mosely*, 810 F.2d at 97-98.

Defendant never filed a motion to proceed *pro se* or by hybrid representation. The Court has not determined, and does not determine, that hybrid representation is appropriate or necessary at this stage of the proceedings. The *pro se* filing by Defendant's wife, ECF No. 36, will be stricken from the record.

Alternatively, even if Mr. Perkins should have been terminated as counsel after Defendant was sentenced, such that Defendant would have had to proceed *pro se* until such time as new counsel was retained or appointed for him, Mrs. Jackson had no right or ability to file the Motion on Defendant's behalf. Mrs. Jackson is not the Defendant, nor is she an attorney. In other words, Mrs. Jackson had no authority to file the Motion, and for that reason, the Motion must be stricken from the record.

Accordingly,

IT IS ORDERED that the Clerk of the Court shall STRIKE the Motion for Compassionate Release. ECF No. 36.

IT IS ORDERED.

s/Denise Page Hood
United States District Judge

May 4, 2020